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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

YELLOWCAKE, INC., California
corporation,

Plaintiff,

v.

HYPHY MUSIC, INC.,

Defendant.

Case No.: 1:20-cv-00988-JLT-BAM

[Assigned to the Hon. Jennifer L. Thurston]

**[PROPOSED] ORDER RE: HYPHY
MUSIC INC.'S OBJECTIONS TO JESUS
CHAVEZ, SR.'S EVIDENCE
PROFFERED IN SUPPORT OF HIS
MOTION FOR SUMMARY JUDGMENT**

HYPHY MUSIC, INC.,

Counterclaimant,

v.

YELLOWCAKE, INC.; COLONIZE
MEDIA, INC; JOSE DAVID
HERNANDEZ; and JESUS
CHAVEZ SR,

Counter-Defendants.

Date: September 29, 2023
Time: 9:00 a.m.
Dept.: Courtroom 4 (7th Floor)
2500 Tulare Street
Fresno, CA 93721
Judge: Hon. Jennifer L. Thurston

**[PROPOSED] ORDER RE: HYPHY'S OBJECTIONS TO JESUS CHAVEZ'S
EVIDENCE PROFFERED IN SUPPORT OF HIS MOTION FOR SUMMARY
JUDGMENT**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

The evidentiary objections timely filed pursuant to Federal Rule of civil Procedure (“*FRCP*”) 56(c)(2), by Defendant/Counterclaimant Hyphy Music, Inc. (“*Hyphy*”) came on for hearing in this Court. Specifically, Hyphy’s objections to the Declaration of Count-Defendant Jesus Chavez, Sr. (“*Chavez*”).

The Court having read and considered the objections, hereby rules as follows:

DECLARATION OF JESUS CHAVEZ, SR

Chavez Decl.	Hyphy’s Objections	Court’s Ruling
<u>¶ 2, 3:1-2</u>	Hyphy objects to the statement from Chavez that he is “the founder and principal of the band Los Originales de San Juan,” on the grounds that such statement is contradicted by Chavez’s deposition testimony. <i>Kennedy v. Allred Mutual Ins.</i> , 952 F.2d 262, 266 (9th Cir. 1991). This is the case because Chavez testified that, in reality, the Group operated as a co-equal partnership comprised of Chavez, accordion player Domingo Torres Flores, and drummer Alfonso Vargas. Chavez Depo I at 18:16-19:3, 20:8-16, 21:16-19. Hyphy also objects to such statement on the grounds that is conclusory. <i>Hansen</i> , 7 F.3d at 138.	Sustained: _____ Overruled: _____

1 2 3 4 5 6 7 8 9	<u>¶ 3, 3:3-4</u>	Hyphy objects to the statement from Chavez that “[i]n or around 2013, I entered into an oral distribution agreement with Counterclaimant pursuant to which Counterclaimant agreed to distribute three albums to be recorded by the Band” on the grounds that such statement is conclusory. <i>Hansen</i> , 7 F.3d at 138.	Sustained: _____ Overruled: _____
10 11 12 13 14 15 16 17	<u>¶ 6, 2:14-15</u>	Hyphy objects to the statement from Chavez that “I never entered into a written agreement with Counterclaimant agreeing to sell the entirety of all rights, title, and interest in the Albums to Counterclaimant” on the grounds that such statement is conclusory. <i>Hansen</i> , 7 F.3d at 138.	Sustained: _____ Overruled: _____

<p><u>¶ 7, 2:16-17</u></p>	<p>Hyphy objects to the statement from Chavez that “[i]n or around 2019, I sold the entirety of all rights, title, and interest in the Albums to Counter-Defendant YELLOWCAKE, INC. (“Yellowcake”) pursuant to a written agreement” on the grounds that such statement is conclusory. <i>Hansen</i>, 7 F.3d at 138.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p><u>¶ 8, 2:18-20</u></p>	<p>Hyphy objects to the statement from Chavez that “[d]uring that same time period, I advised Counterclaimant of my sale to Yellowcake to ensure that Counterclaimant would stop distributing the Albums that were subject to our oral agreement” on the grounds that such statement is conclusory. <i>Hansen</i>, 7 F.3d at 138.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

DATED: August 15, 2023

ALTVIEW LAW GROUP, LLP

By: 

JOHN M. BEGAKIS
Attorneys for Defendant/Counterclaimant
HYPHY MUSIC, INC., a California
corporation

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing electronically filed document has been served via a “Notice of Electronic Filing” automatically generated by the CM/ECF System and sent by e-mail to all attorneys in the case who are registered as CM/ECF users and have consented to electronic service pursuant to L.R. 5-3.3.

Dated: August 15, 2023

By: /s/ John Begakis
John M. Begakis